

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment ARM)	NOTICE OF AMENDMENT
37.70.401, 37.70.402, 37.70.406,)	
37.70.408, 37.70.601, 37.70.602,)	
37.70.607, and 37.71.602 pertaining to)	
Low Income Energy Assistance)	
Program (LIEAP) and Low Income)	
Weatherization Assistance Program)	
(LIWAP))	

TO: All Interested Persons

1. On October 4, 2007, the Department of Public Health and Human Services published MAR Notice No. 37-413 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 1532 of the 2007 Montana Administrative Register, issue number 19.

2. The department has amended ARM 37.70.401, 37.70.402, 37.70.406, 37.70.408, 37.70.601, and 37.71.602 as proposed.

3. The department is not amending ARM 37.70.607 at this time.

4. The department has amended the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

37.70.602 BENEFIT AWARDS: MISCELLANEOUS (1) and (2) remain as proposed.

(3) When a household changes residence ~~or type of primary fuel~~ during the heating season, the household must file a new application. The household's benefit award will then be recomputed based on its new circumstances, and the new benefit will be equal to the benefit award the household would have received had its original application been for the new circumstances prorated from the date of the change of residence ~~or type of primary fuel~~. Any unused portion of the original benefit award reverts to the department. When a household changes type of primary heating fuel during the heating season, the household is not required to file a new application but must have its benefit award recomputed based on the new type of fuel. The new benefit will be prorated from the date of the change of type of fuel. Any unused portion of the original benefit reverts to the department.

(4) and (5) remain as proposed.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

5. The department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT 1: The department proposes to amend ARM 37.70.607 in regard to the calculation of benefits for households that reside in publicly subsidized housing and receive a utility subsidy. The department's proposal to subtract the amount of the utility subsidy from the benefit the household would receive under ARM 37.70.601 is not fair because the utility subsidy is intended to be used for all of the household's utility costs, not just heating costs. Since the utility subsidy is used to pay for expenses other than heating, it is inequitable to reduce the household's LIEAP benefit by the full amount of the utility subsidy.

RESPONSE: The department agrees that the full amount of the utility subsidy should not be deducted in light of the fact that the household may use it to pay for other utility costs besides heating expenses. It would be very complicated and time consuming to make a determination for each household as to how much of the subsidy is applied to heating costs and to deduct only that amount, however. Therefore, the department has decided not to deduct the utility subsidy in calculating the benefit amount for households that get such subsidies and will not amend ARM 37.70.607 as proposed.

COMMENT #2: The proposed amendments to ARM 37.70.602(3) do not make sense. The first sentence of (3) as proposed to be amended states that a household must file a new application when the household changes residence or changes type of primary fuel during the heating season, but another part of (3) states that a household does not have to file a new application although the household's benefit award must be recomputed based on the new type of fuel.

RESPONSE: The statement in the first sentence that a household that changes type of primary fuel during the heating season must file a new application is incorrect and was included erroneously. As explained on the first notice, there is no need for a household that changes type of heating fuel to file a new application because the department doesn't need the detailed information an application provides to recompute the benefit when the only change is the type of fuel. The department therefore is revising ARM 37.70.602(3) by taking out the language in the first sentence about a household that changes type of fuel having to file a new application and leaving in the statement later in (3) that a household that changes type of fuel does not have to file a new application.

/s/ Barbara Hoffmann
Rule Reviewer

/s/ Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State November 13, 2007.